

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

FRANKLIN DELANO FLOYD,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-09-709-C
)	
USA, et al,)	
)	
Respondents.)	

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing pro se, initiated this action on July 6, 2009, by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2241. Thereafter, United States District Judge Robin J. Cauthron referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). In accordance with that referral, the undersigned entered an Order on July 10, 2009, noting that the Petitioner's motion to proceed *in forma pauperis* was not on the proper form and it was missing financial information and/or the signature of an authorized officer of the penal institution. Accordingly, the Court directed him to cure the deficiencies by July 30, 2009.¹ The Petitioner was also informed that failure to comply with the Order by the date set forth above could result in dismissal of the action without prejudice and without further notice. See LCvR 3.3; 3.5.

¹The Court file reveals that the Order dated July 10, 2009, was returned marked "MOVED, LEFT NO ADDRESS." Additionally, Petitioner has not provided this Court with his change of address. See Local Civil Rule 5.4.

As of this date, the Petitioner has neither complied with the Order, sought an extension of time in which to do so, nor has he attempted to show cause for his failure. Therefore, the undersigned recommends that the petition for a writ of habeas corpus be dismissed without prejudice to refiling.

RECOMMENDATION

Accordingly, the undersigned recommends that the petition for a writ of habeas corpus be dismissed without prejudice to refiling due to Petitioner's failure to either pay the required filing fee or to submit a properly completed *in forma pauperis* application. The Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by August 24, 2009, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.1. The Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal questions. Moore v. United States, 950 F.2d 656 (10th Cir. 1991). This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 4th day of August, 2009.



DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE